

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
EARL B. GARVIN,

:
:
Petitioner,

:
:
-v.-

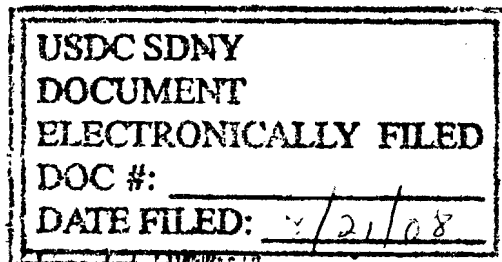
:
DALE ARTIST,

:
Respondent.
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FRANK MAAS, United States Magistrate Judge.

**ORDER DENYING
REQUEST FOR COUNSEL**

08 Civ. 5285 (PAC)(FM)



The petitioner in this proceeding seeks the appointment of pro bono counsel pursuant to 28 U.S.C. § 1915 (e) (1). The Second Circuit's decision in Cooper v. A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989), indicates that the threshold inquiry on such an application is whether the case has merit. If it appears that the case has merit, the Court must next consider the petitioner's ability to pay for private counsel, efforts to obtain unpaid counsel, and ability to present the case without assistance. Id. The Court must also be mindful that the supply of volunteer counsel is limited.

In my judgment, the petitioner has not yet made a showing sufficient to warrant the requested appointment. Accordingly, the petitioner's application is denied without prejudice to its renewal at a later time.

SO ORDERED

Dated: New York, New York
August 20, 2008



FRANK MAAS
United States Magistrate Judge

Copies to:

Honorable Paul A. Crotty
United States District Judge

Earl B. Garvin
03-A-3850
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